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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/822,802	03/30/2001	Robert Case	13207.7USU1	9154

7590

06/30/2005

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EXAMINER

PASS, NATALIE

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/822,802

Applicant(s)

CASE, ROBERT

Examiner

Natalie A. Pass

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/17/01 & 10/04/02</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the application filed 30 March 2001. Claims 1-21 are pending.

Claim Objections

2. Claims 13-14 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. It is unclear whether the dependent claims include every limitation of the parent claim. A proper dependent claim shall not conceivably be infringed by anything which would not also infringe the basic claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 13 recites "[a] computer-readable medium having computer-executable instructions for the method recited in claim 1." It is unclear how the step of "labeling a test sample," as recited in claim 1, line 8, can be performed by a computer-readable medium.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claim 15 is rejected under 35 U.S.C. 102(e) as being anticipated by Coli et al., U.S. Patent Number 6, 018, 713.

(A) As per claim 15, Coli teaches a remote data input terminal having a user interface screen in communication with a server-based lab test message processor for requesting a receiving medical patient test results (Coli; column 9, lines 3-14, column 14, lines 50-56), the remote data input terminal comprising:

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a user interface module for controlling the operation of the terminal and storing data within a test request and test result data store (Coli; Figure 3, Figure 4, Figure 5, column 5, lines 6-12, column 8, line 26);

a user sign-in module for accepting user identification and authentication information needed to set up the operation of the remote data input terminal (Coli; Figure 3, Figure 13, Item 1302, column 5, lines 6-12);

a patient processing module for entering patient identification information to generate a test request message to the lab test message computer needed to order a medical patient test (Coli; Figure 3, Item 306, Figure 5, column 5, lines 7-10, column 8, line 26);

a test results interface module for receiving a "report" (reads on "test result message") containing the medical test results corresponding to the test request message (Coli; Figure 12, Figure 13, Figure 18, column 9, lines 34-39); and

a message transfer module for performing data communications between the remote data input terminal and the lab test message processor (Coli; Figure 12, Figure 13, column 4, lines 50-60).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claims 1-3, 5-14, 16, 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coli et al., U.S. Patent Number 6, 018, 713 in view of Gombrich et al., U.S. Patent Number 4, 835, 372.

(A) As per claim 1, Coli teaches a method for requesting and receiving medical patient test results using a remote data input terminal in communication with a server-based lab test message computer (Coli; column 9, lines 3-14), the method comprising:

entering patient identification information for a medical patient test requested to be performed into the remote data input terminal (Coli; Figure 3, Item 306, Figure 5, column 5, lines 7-10, column 8, line 26);

entering test identification information for identifying the medical patient test requested to be performed into the remote data input terminal (Coli; Figure 3, Item 310, column 7, lines 54-55);

transmitting the patient identification information and the test identification information to the "network scheduler" (reads on "lab test message processor") in order to request the medical patient tests to be performed upon the collected test sample (Coli; Figure 2, Item 218, Figure 3, Item 320, column 9, lines 29-34);

receiving a "report" (reads on "test result message") containing test results for the requested medical patient test (Coli; Figure 12, Figure 13, Figure 18, column 9, lines 34-39); and

displaying the test results from the requested medical patient test on the remote data input terminal (Coli; Figure 4, Item 402, Figure 10, Figure 13, Figure 18, column 10, lines 57-60).

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Coli fails to explicitly disclose

labeling a test sample collected to perform the requested medical patient test with the patient identification information and the test identification information.

However, the above features are well-known in the art, as evidenced by Gombrich.

In particular, Gombrich teaches

labeling a test sample collected to perform the requested medical patient test with the patient identification information and the test identification information (Gombrich; column 9, lines 22-26, column 16, lines 60-64).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Coli to include labeling a test sample collected to perform the requested medical patient test with the patient identification information and the test identification information, as taught by Gombrich, with the motivations of enabling accurate and rapid transfer of patient information, thereby increasing the accuracy and/or effectiveness of drug administration and patient care, and decreasing the duration of hospital stay, and of preventing medical errors and incorrect treatment caused by inaccurate drug identification (Gombrich; column 1, lines 43-59).

(B) As per claim 2-3, 5-8, Coli and Gombrich teach a method as analyzed and discussed in claim 1 above

wherein the remote data input terminal comprises a hand-held computer having a wireless communications interface for communicating with the lab test message processor (Gombrich; Figure 25, column 22, lines 62-65);

wherein the remote data input terminal further comprises a bar code scanner for receiving data input (Gombrich; Figure 1, Item 120, column 10, lines 15-20);

wherein the entering patient identification information comprises scanning a patient bar code containing a unique patient ID (Gombrich; Figure 1, Abstract, column 9, lines 39-52);

wherein the patient bar code is located on a patient bracelet worn by the patient (Gombrich; Figure 3, Item 52, column 9, lines 39-52);

wherein the patient bar code is located on a patient chart (Gombrich, column 9, lines 39-52); and

wherein the patient identification information and the test identification information comprises one or more bar codes (Gombrich; column 9, lines 39-52).

The motivations for combining the respective teachings of Coli and Gombrich are as given in the rejection of claim 1 above, and incorporated herein.

(C) As per claims 9-12, Coli and Gombrich teach a method as analyzed and discussed in claim 1 above

wherein the method further comprises:

identifying one or more recipients for the test result message (Coli; column 14, lines 6-13); and

transmitting the one or more recipient's identity to the lab test message processor for use when sending the test results to desired recipients (Coli; column 14, lines 6-13);

identifying one or more additional recipients for the test result message (Coli; column 2, lines 15-24, column 14, lines 6-13); and

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forwarding the test result message to the one or more additional recipients (Coli; column 2, lines 15-24, column 14, lines 6-13);

wherein the forwarding the test result message comprises:

transmitting the identity of the one or more additional recipients to the lab test message processor (Coli; column 2, lines 15-24, column 14, lines 6-13); and

instructing the lab test message processor to send the test result message to the additional recipients (Coli; column 2, lines 15-24, column 14, lines 6-13); and

wherein the displaying of test results comprises:

displaying one or more test result messages (Coli; Figure 4, Item 402, Figure 10, Figure 18, column 10, lines 57-60);

accepting search commands for additional test result messages corresponding to the search commands (Coli; Figure 4, Item 402, Figure 10, Figure 18, column 10, lines 57-60, column 14, lines 55-62); and

displaying the additional test result messages corresponding to the search commands (Coli; Figure 4, Item 402, Figure 10, Figure 18, column 10, lines 57-60, column 14, lines 55-62).

(D) Claims 13, 14 differ from method claims 1, 12 by reciting a “computer-readable medium having computer-executable instructions...” in the preamble. As per this limitation, Coli clearly discloses his invention to be implemented on a “computer-readable medium having computer-executable instructions” (Coli; column 6, line 66 to column 7, line 44). The remainder of claims 13, 14 incorporate the limitations of claims 1, 12, and are therefore rejected for the same reasons given above for claims 1, 12.

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The motivations for combining the respective teachings of Coli and Gombrich are as given in the rejection of claim 1 above, and incorporated herein.

(E) As per claim 16, Coli teaches a terminal as analyzed and discussed in claim 15 above.

Coli fails to explicitly disclose wherein the remote data input terminal is a hand-held computer having a wireless communications module for communicating with the lab test message computer.

However, the above features are well-known in the art, as evidenced by Gombrich.

In particular, Gombrich teaches wherein the remote data input terminal is a hand-held computer having a wireless communications module for communicating with the lab test message computer (Gombrich; Figure 25, column 22, lines 62-65).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Coli to include wherein the remote data input terminal is a hand-held computer having a wireless communications module for communicating with the lab test message computer, as taught by Gombrich, with the motivations of providing a means for determining the identification and location of personnel in the field, including patients and staff members, and miscellaneous items, particularly in the case of health care institutions and more particularly nursing homes and mental institutions wherein the patients are very ambulatory and are not always cognizant of their actions (Gombrich; column 3, line 59 to column 4, line 20).

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(F) As per claims 18-21, Coli and Gombrich teach a terminal as analyzed and discussed above

wherein the remote data input terminal further comprises a user ID scanning module for accepting input for the patient identification information and the test identification information (Gombrich; Figure 1, Item 120, column 10, lines 15-20);

wherein the user ID scanning module comprises a scanning module for scanning bar codes (Gombrich; Figure 1, Item 120, column 10, lines 15-20);

wherein the scanning module is an integral part of the remote data input terminal (Gombrich; Figure 12, column 35, lines 39-43); and

wherein the scanning module is an attached peripheral electronically connected to the remote data input terminal (Gombrich; Figure 12, column 32, lines 25-30).

The motivations for combining the respective teachings of Coli and Gombrich are as given in the rejection of claim 1 above, and incorporated herein.

9. Claims 4, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coli et al., U.S. Patent Number 6, 018, 713 and Gombrich et al., U.S. Patent Number 4, 835, 372 as applied to claims 1-3 and 15-16 above, and further in view of Chaco, U.S. Patent Number 5, 465, 082.

(A) As per claim 4, Coli and Gombrich teach a method as analyzed and discussed in claims 1-3 above.

Coli and Gombrich fail to explicitly disclose

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wherein the remote data input terminal further comprises a pen-based user input screen for accepting input from a user.

However, the above features are well-known in the art, as evidenced by Chaco.

In particular, Chaco teaches a method

wherein the remote data input terminal further comprises a pen-based user input screen for accepting input from a user (Chaco; Figure 23, column 13, lines 39-52).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Coli to include wherein the remote data input terminal further comprises a pen-based user input screen for accepting input from a user as taught by Chaco, with the motivations of providing an apparatus for accessing and enabling a portable database having the portability of a credit card, which may be used by patients and caregivers in a hospital environment and in other analogous environment and which when coupled with an identification badge and enabled, acts to communicate data with other data processing apparatus via a ubiquitous network (Chaco; column 1, lines 9-17).

(B) As per claim 17, Coli Gombrich and Chaco teach a terminal as analyzed and discussed in claims 15 and 16 above

wherein the hand-held computer accepts pen-based input data generated using pen strokes from a stylus upon a user interface screen (Chaco; Figure 23, column 13, lines 39-52).

The motivations for combining the respective teachings of Coli Gombrich and Chaco are as given in the rejection of claims 4 and 16 above, and incorporated herein.

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Conclusion

10. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The cited but not applied references, Troyer et al, U.S. Patent Number 5,591, 974, Brown, U.S. Patent Number 6, 168, 563, Evans, U.S. Patent Application Number 5, 924, 074, Margery et al., U.S. Patent Number 6, 055, 487, Layne et al. 5, 841, 975, Killian, International Publication Number WO 9411838A, and Goldenberg, U.S. Patent Application Publication 2002/0065682 teach the environment of remote communication of test results.

11. Any response to this action should be mailed to:

**Commissioner of Patents and Trademarks
Washington D.C. 20231**

or faxed to: **(703) 305-7687.**

For informal or draft communications, please label "PROPOSED" or "DRAFT" on the front page of the communication and do NOT sign the communication. After Final communications should be labeled "Box AF."

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Natalie A. Pass whose telephone number is (571) 272-6774. The examiner can normally be reached on Monday through Thursday from 9:00 AM to 6:30 PM. The examiner can also be reached on alternate Fridays.

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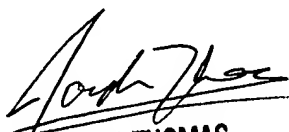
13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas, can be reached at (571) 272-6776. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (571) 272-3600.

14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Natalie A. Pass

June 21, 2005


JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3626